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9 *Attorney for Express Scripts, Inc.*

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION

13 **IN RE SUBPOENAS *DUCES TECUM* AND**
14 **TO TESTIFY AT DEPOSITION TO**
15 **OPTUMRX, INC.**

Case No. 8:17-MC-00025

16 **ANTHEM, INC,**

17 Plaintiff and Counter-
18 Defendant,

19 vs.

20 **EXPRESS SCRIPTS, INC.,**

21 Defendant and Counter-
22 Plaintiff.

Underlying Litigation:
Civil Action No. 1:16-cv-02048-ER
United States District Court
Southern District of New York

**DEFENDANT AND COUNTER-PLAINTIFF
EXPRESS SCRIPTS, INC.'S NOTICE OF
MOTION AND MOTION TO COMPEL
NON-PARTY OPTUMRX, INC. TO
COMPLY WITH SUBPOENA *DUCES
TECUM* AND TO TESTIFY AT
DEPOSITION**

Hearing Date: TBD
Hearing Time: TBD
Courtroom: TBD
Judge: TBD

1 TO THE COURT, ALL PARTIES AND COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that at a date, time, and location to be determined
3 upon assignment of this matter, Express Scripts, Inc. (“ESI”), Defendant and Counter-
4 Plaintiff in the civil action *Anthem, Inc. v. Express Scripts, Inc.*, currently pending in
5 the U.S. District Court for the Southern District of New York at civil action number
6 1:16-cv-02048-ER (the “Litigation”), will and hereby does move to compel non-party
7 OptumRx, Inc. (“Optum”) to comply with a Subpoena *Duces Tecum* and a Subpoena to
8 Testify at Deposition (the “Subpoenas”).

9 This motion is based on the Notice of Motion and Motion, the accompanying
10 Joint Stipulation, the declarations in support of the Joint Stipulation and accompanying
11 exhibits, the pleadings and papers on file in the Litigation, the arguments of counsel,
12 and any matters upon which the Court may or must take judicial notice. **As noted in**
13 **the Joint Stipulation, ESI and Optum consent to—and affirmatively request—**
14 **transfer of this matter to the Southern District of New York pursuant to Federal**
15 **Rule of Civil Procedure 45(f).** This motion is made following repeated conferences of
16 counsel pursuant to Local Rule 37-1, which took place on August 2, 2017, August 4,
17 2017, August 18, 2017 and September 25, 2017. Express Scripts hereby certifies that it
18 conferred in good faith with Optum in an effort to obtain the discovery without court
19 action.

1 Dated: October 27, 2017

Respectfully submitted,

2 QUINN EMANUEL URQUHART &
3 SULLIVAN LLP
4

5 By: /s/ James R. Asperger

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